

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARQUITA N. WILSON,

Defendant-Appellant.

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UNPUBLISHED

October 26, 2001

No. 228543

Wayne Circuit Court

LC No. 99-004441

Before: Holbrook, Jr., P.J., and Cavanagh and R. S. Gribbs\*, JJ.

PER CURIAM.

Defendant appeals as of right her jury trial conviction of possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), for which she was sentenced to three years' probation with the first sixty days served in the county jail. We affirm.

Defendant's first issue on appeal is that the prosecution improperly argued facts not in evidence or mischaracterized the evidence in closing argument by portraying her as a drug dealer. Defendant did not object to the remarks in the trial court; therefore, appellate review is precluded unless a timely objection could not have cured the error or a failure to review the issue would result in a miscarriage of justice. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994); *People v Watson*, 245 Mich App 572, 586; 629 NW2d 411 (2001).

When reviewing prosecutorial misconduct issues, we examine the pertinent portion of the record and evaluate the contested remarks in context. *People v Noble*, 238 Mich App 647, 660; 608 NW2d 123 (1999). Generally, prosecutors are free to argue the evidence and all reasonable inferences arising from the evidence. *People v Bahoda*, 448 Mich 261, 282; 531 NW2d 659 (1995); *People v Fisher*, 220 Mich App 133, 156; 559 NW2d 318 (1996).

First, defendant contends that it was improper for the prosecutor, when referring to defendant's witnesses' testimony, to argue, "clearly they have an interest in this because they are friends of the defendants." However, the prosecutor was merely arguing that these witnesses were not worthy of belief, in particular because they allowed their young children to continue to be baby-sat by defendant even after her arrest and in light of the evidence against her. Consequently, defendant's claim is without merit. See *People v Launsbury*, 217 Mich App 358, 361; 551 NW2d 460 (1996).

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\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Defendant also argues that the prosecutor improperly mischaracterized the testimony of defendant's witnesses when he made the following statements:

So the defense witnesses really don't tell us anything substantive about the case. What they do tell us though is very important. They tell us that Ms. Wilson and Mr. Brown are involved in selling this marijuana. They are involved in trafficking drugs. They are involved in this marijuana.

Upon review of the relevant record, we conclude that reversal is not required. Although the prosecutor's comments, intimating that the testimony of defendant's witnesses supported the prosecutor's theory that defendant was trafficking drugs, may have been ill-advised and such an inference may be tenuous, a prompt curative instruction would have dispelled any prejudicial effect of the isolated comment. See *People v Knapp*, 244 Mich App 361, 382; 624 NW2d 227 (2001).

Next, defendant argues that the evidence was insufficient to establish that she possessed and intended to deliver marijuana. We disagree. The elements of possession with intent to deliver a controlled substance include that the defendant knowingly possessed a controlled substance and intended to deliver the substance to someone else. See *People v Crawford*, 458 Mich 376; 582 NW2d 785 (1998). Possession may be either actual or constructive and proven by circumstantial evidence and reasonable inferences drawn from the evidence. *People v Nunez*, 242 Mich App 610, 615-616; 619 NW2d 550 (2000), quoting *People v Maliskey*, 77 Mich App 444, 453; 258 NW2d 512 (1977). Intent to deliver may be inferred from the quantity and packaging of the substance, and other circumstances surrounding the arrest. *People v Wolfe*, 440 Mich 508, 524; 489 NW2d 748, amended 441 Mich 1201 (1992).

In this case, the evidence included: (1) four freezer bags containing marijuana found in a dresser drawer, next to women's undergarments, in the master bedroom, (2) six freezer bags of marijuana found in a crawl space adjacent to the bedroom, (3) a shot gun and an assault rifle, (4) a digital scale, (5) small plastic bags, (6) that defendant was renting the house, (7) an envelope addressed to defendant located on the dresser where the four bags of marijuana were found, and (8) \$23,014 in cash. Viewing this evidence in the light most favorable to the prosecution, a rational trier of fact could have found beyond a reasonable doubt that defendant possessed and intended to deliver the marijuana.<sup>1</sup> See *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Mark J. Cavanagh

/s/ Roman S. Gribbs

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<sup>1</sup> The issue whether the verdict was against the great weight of the evidence has been abandoned on appeal by defendant's failure to argue the merits of the issue. See *People v McMiller*, 202 Mich App 82, 83, n 1; 507 NW2d 812 (1993).